

ORDINANCE NO. 22

SERIES 2008

AN ORDINANCE AMENDING THE PUBLIC DRINKING VIOLATION PROVISIONS OF THE TOWN CODE TO INCLUDE THE POSSESSION OF UNSEALED ALCOHOLIC BEVERAGES ON PUBLIC STREETS, SIDEWALKS AND OTHER PUBLIC RIGHTS OF WAY AS A VIOLATION THEREOF

WHEREAS, the Town of Crested Butte, Colorado (the "Town") is a home rule municipality duly and regularly organized and validly existing as a body corporate and politic under and by virtue of the Constitution and laws of the State of Colorado;

WHEREAS, the Crested Butte Municipal Code of 1986, as amended (the "Code"), does not contain requirements making the possession of an unsealed alcoholic beverages on any public streets, sidewalks and other public rights of way unlawful;

WHEREAS, the Crested Butte Marshal's Department (the "Department") has determined that the possession of unsealed alcoholic beverages on public streets, sidewalks and other public rights of way, where not otherwise authorized by the Town, is a nuisance and detracts from the character of the Town and the health, safety and general welfare of residents and visitors alike;

WHEREAS, the Department has determined that an amendment to the Town Code making it unlawful for any person to possess an unsealed alcoholic beverage on public streets, sidewalks and other public rights of way, where not otherwise authorized by the Town, is necessary to eliminate said nuisance and, accordingly, the Department recommends that the Town Council adopt the amendments to the Code set forth below in order to accomplish these goals; and

WHEREAS, the Town Council finds that the below provisions accomplish the recommendations of the Department and that such recommendations and the amendments to the Town Code made hereunder are in the best interest of the health, safety and general welfare of the residents and visitors of the Town.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Amending Section 9-5-2 – Public Drinking. Section 9-5-2 is hereby deleted in its entirety and replaced with the following:

"A. It shall be unlawful for any person to drink or consume any alcoholic beverage on any public street, sidewalk or other public right of way within the Town and to drink or consume any alcoholic beverage from glass or other breakable container on any public property within the Town.

B. It shall be unlawful for any person to possess any unsealed alcoholic beverage in any container of any kind or description on any public street, sidewalk or other public right of way. For purposes hereof, the term "unsealed" shall mean that the cap, top or access to the alcoholic beverage shall be broken or opened so that such beverage may be consumed without further action by the person. Notwithstanding the foregoing, the provisions of this section shall not apply to a person in possession of one opened but resealed container of partially consumed alcoholic beverage which was lawfully removed from a licensed premises pursuant to § 12-47-412, C.R.S.

C. The Town Council may, by motion at any regular or special meeting, abate the provisions set forth in this section as to specific location at specific times, provided, however, that such abatement otherwise meets all requirements of the Colorado Liquor Code. Any such abatement shall be immediately reported by the Town Clerk, in writing, to the Town Marshal."

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance as an entirety, it being the legislative intent that this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. Savings Clause. Except as amended hereby, the Town of Crested Butte Municipal Code of 1986, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which is in conflict with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 3rd DAY OF NOVEMBER, 2008.

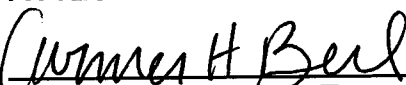
ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 17th DAY OF NOVEMBER, 2008.

TOWN OF CRESTED BUTTE, COLORADO

By:


Leah Williams, Mayor Pro-tem

ATTEST:


Carmen Bell, Deputy Town Clerk

(SEAL)